

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

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| UNITED STATES OF AMERICA, <i>Plaintiff</i> | § | |
| | § | |
| v. | § | |
| | § | Case Nos. 1:14-CR-359-LY |
| CLAYTON ERIC CLAFLIN, <i>Defendant</i> | § | 1:20-CR-159-LY |
| | § | |

ORDER

Now before the Court is Defendant Clayton Eric Claflin's Unopposed Motion to Withdraw from Appeal and Request for Appointment of New Counsel, filed September 1, 2021 in Case No. 1:20-CR-159-LY (Dkt. 64) and September 14, 2021 in Case No. 1:14-CR-359-LY (Dkt. 123). The District Court referred the motions to the undersigned Magistrate Judge for resolution on September 14, 2021. Dkt. 65; Dkt. 125.

In Case No. 1:14-CR-359-LY, Defendant was convicted of Possession of a Firearm by a Convicted Felon, in violation of 18 U.S.C. § 922(g)(1), and sentenced to time served, followed by a three-year term of supervised release. Dkt. 91. A petition to revoke Defendant's supervised release was issued March 9, 2020, and remains pending. Dkt. 94.

In Case No. 1:20-cr-159-LY, Defendant is charged with Possession of a Firearm by a Convicted Felon, in violation of 18 U.S.C. § 922(g)(1). Dkt. 15. On April 1, 2021, the Court found that Defendant is not mentally competent to stand trial at the present time and entered an Order of Temporary Commitment. Dkt. 34. Defendant filed a Notice of Appeal of that order to the United States Court of Appeals for the Fifth Circuit on April 9, 2021. Dkt. 35; *United States of America v. Clayton Eric Claflin*, No. 21-50302 (5th Cir. Apr. 9, 2021).

Defendant now asks that his attorney, Keith T. Lauerman, be permitted to withdraw from the interlocutory appeal and that he be appointed new appellate counsel. Mr. Lauerman states that he “desires to continue as counsel in the trial court.” Motion to Withdraw from Appeal ¶ 9. The United States Attorney Appellate Division does not oppose the motion.

Having considered the Motion to Withdraw from Appeal, the undersigned finds that there is good cause to grant the motion and permit counsel to withdraw from representation of Defendant on appeal. **IT IS THEREFORE ORDERED** that Keith T. Lauerman is hereby **WITHDRAWN** as Defendant’s appellate counsel of record in Case Nos. 1:14-CR-359-LY and 1:20-CR-159-LY.

Defendant has been detained since March 10, 2020, when he was arrested pursuant to a warrant issued on the petition to revoke his supervised release. Consistent with the Financial Affidavit Defendant completed the day of his arrest (Dkt. 96 in Case No. 1:14-CR-359-LY), the Court finds that Defendant is financially unable to employ counsel on appeal, and that the interests of justice require that counsel be appointed to represent him.

IT IS FURTHER ORDERED that **WORTH CARROLL #24091192** is hereby **APPOINTED** to represent Defendant on appeal of Case No. 1:14-CR-359-LY and in any appeal that may be taken in Case No. 1:20-CR-159-LY.

SIGNED on September 16, 2021.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE